



Attorney General

1275 WEST WASHINGTON

Phoenix, Arizona 85007

Robert R. Corbin

August 10, 1987

Mr. Thomas P. Caldwell Ph.D., Director
Arizona Department of Commerce
State Capitol Tower
1700 West Washington
Phoenix, Arizona 85007

Re: I87-102 (R87-113)

Dear Mr. Caldwell:

You ask whether a county, through its board of supervisors, may donate money to the Arizona Superconducting Super Collider ("SSC") Project so as to "complete Arizona's site proposals and advocate the same." The Arizona SSC Project is an organization attached to the Arizona Department of Commerce and dedicated to procuring the SSC for Arizona. With certain qualifications, we conclude that a county may donate money to the Arizona SSC Project.

Ariz. Const., art. XII, §§ 1 to 4 sets out the powers of the counties and county officers. The legislature has further defined the powers of the county and county board of supervisors in A.R.S. §§ 11-101 to 11-981. A county may only act within the scope of its statutory and constitutional mandates for "[a] county has only such powers as have been expressly or by necessary implication delegated to it by the legislature." Maricopa County v. Black, 19 Ariz.App. 239, 241, 506 P.2d 279, 281 (1973). The county board of supervisors operates under the same restrictions. Davis v. Hidden, 124 Ariz. 546, 606 P.2d 36 (App. 1979).

A.R.S. § 11-259 authorizes the county board of supervisors to appoint a county commissioner of immigration ("commissioner"). The commissioner's job is outlined in A.R.S. § 11-259 which states in pertinent part:

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A. . . . The commissioner shall:

1. Provide information requested by persons desiring to immigrate to the county or make investments therein.

2. Correspond with immigration bureaus, chambers of commerce, tourists bureaus or other commercial bodies, and provide data for the guidance of prospective immigrants or tourists.

3. Furnish reliable information regarding localities in the county where the settler or tourist may choose a home or make investments.

4. Issue maps and pamphlets on the resources of the county.

5. Promote tourist travel or the investment of capital, and distribute such documents to insure their most useful circulation.

6. Assist nonprofit tourist attractions organized pursuant to title 10, chapter 5.

Id. (emphasis added).

The Attorney General has previously written that a commissioner may use county funds to support state projects. Ariz. Atty. Gen. Op. 58-64. In that opinion we stated that it was within the commissioner's power, as expressed in A.R.S. § 11-259, to expend county money for the construction and maintenance of an irrigation ditch related to a state dam project within the county. The Attorney General reasoned that any county contribution was likely to promote investment and tourism in that county, stating:

It is reasonable to say that the building of the Lynx Creek Dam would provide an opportunity to encourage tourists to come to Yavapai County, as well as to invite the investment of capital. This is within the purpose of the Immigration Fund.

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Ariz. Atty. Gen. Op. 58-64.

In such a situation the dispositive determination is whether the funds spent will promote immigration to or tourism and investment in the county for which the commissioner is appointed. The commissioner need only have a reasonable basis to find that the use of county funds will promote these purposes. Id.

However, even if the commissioner reasonably believes that a donation to the state will promote the statutory purposes, the commissioner may only give to the extent allowed by statute. Beyond those expenses involved in maintaining the commissioner's office (A.R.S. § 11-259 (B)), the commissioner may expend money on projects designed to promote tourism, investment and immigration in quantities proportionate to the population of the county. A.R.S. § 11-259(C) to (F).

C. Counties of the first class having a population of one hundred thousand or over, as determined by the last official census of the United States, may expend a further sum not exceeding two hundred thousand dollars annually for the purposes prescribed in this section.

D. Counties of the first class having a population of less than one hundred thousand, as determined by the last official census of the United States, may expend a further sum not exceeding fifty thousand dollars annually for the purposes prescribed in this section.

E. Counties of the second class may expend a sum not exceeding ten thousand dollars annually for the purposes prescribed in this section.

F. Counties of the third class may expend a sum not exceeding five thousand dollars annually for the purposes prescribed in this section.

Id.

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Where the commissioner has a reasonable basis for the finding that the donation of county money to the Arizona SSC Project will promote tourism, immigration and investment in that commissioner's county, he or she may do so within the financial limits set out in A.R.S. § 11-259(C) to (F).

Sincerely,

A handwritten signature in cursive script, appearing to read "Bob Corbin".

BOB CORBIN
Attorney General

BC:PC:gm